

*Ensign Ranches of Utah, L.C.*

*139 E. South Temple, Suite 310*

*Salt Lake City, Utah 84111*

*Tel: (801)328-1600*

*Fax: (801)328-1616*

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September 16, 1997

*Doug*

Commissioner Gary M. Griffith  
Commissioner Lois E. McArthur  
Commissioner Teryl Hunsaker  
47 South Main Street  
Tooele, Utah 84074

Re: Petition to Intervene in Private Fuel Storage Facility in Skull Valley

Dear Commissioners,

Enclosed please find three copies of the Petition to Intervene in the Nuclear Regulatory Commission Hearings regarding the proposed Private Fuel Storage Facility on the Goshute Indian Reservation in Skull Valley we have recently filed. We thought a copy of our Petition to Intervene would help you understand our position better and understand the scope of our operations in Skull Valley.

As we indicated to you during our meeting last month, we are very concerned about the negative impacts the proposed facility would have on our operations and land in Skull Valley. We intend to pursue whatever reasonable avenues are available to us to prevent the location of this facility in Skull Valley, at least as the facility is currently proposed. We understand your stewardship for creating economic growth and tax base, but we cannot afford to have that occur at the expense of our holdings in Skull Valley.

Please contact us at your convenience with any questions, comments, or additional information you may have.

Very truly yours,

*David E. Allen*

David E. Allen

*Christopher F. Robinson*

Christopher F. Robinson

Enclosures: 3 copies of Petition

Private Fuel Storage, L.L.C.,  
(Private Fuel Storage Facility)

**CASTLE ROCK LAND AND LIVESTOCK, L.C.,  
SKULL VALLEY COMPANY, LTD., and  
ENSIGN RANCHES OF UTAH, L.C.  
REQUEST FOR HEARING  
AND  
PETITION TO INTERVENE**

The Notice of Docketing and applicable regulations afford the opportunity to request a hearing and to file a petition to intervene. Notice of Docketing, 62 Fed Reg.

41,099; 10 C.F.R. § 2.105. Petitioners are related business entities under common management and share common interests in the subject matter of this proceeding. Petitioners hereby jointly request a hearing and leave to intervene in this proceeding.

### III. FACTUAL BACKGROUND

#### A. Petitioners

Petitioners are independent ranching, farming and land investment companies with significant investments and operations located in Skull Valley, Tooele County, Utah. Petitioners Castle Rock and Skull Valley Co. collectively own approximately 67,000 acres in Skull Valley. Petitioner Ensign Ranches leases the lands owned by Castle Rock and Skull Valley and conducts farming and livestock operations thereon.

The locations of Petitioners' properties and major facilities in the vicinity of the proposed PFSF are shown on Exhibit 1 attached hereto.

Castle Rock's lands are used to winter approximately 2,000 mother cows and calves in Skull Valley and they provide summer pasture for approximately 200 mother cows and calves. In addition, Petitioner Castle Rock has three separate farms located in Skull Valley, the Hatch Farm, the Brown Farm and the Island Farm, all currently operated by Ensign Ranches. The Brown Farm is located immediately to the north of the Skull Valley Indian Reservation boundary and is located less than 2,000 feet from the proposed PFSF. The Island Farm is located approximately 4,000 feet north of the Brown Farm, while the Hatch Farm is located several miles to the south of Skull Valley Indian Reservation.

Petitioner Skull Valley Co.'s lands are used to winter approximately 2,000 mother cows and calves and to support approximately 500 mother cows and calves during the summer months. In addition, Petitioner Skull Valley Co. has two farms located in Skull Valley, the South Farm and the Iosepa Farm, which are currently operated by Ensign Ranches. The South Farm is located approximately four miles north of the Skull Valley Indian Reservation while the Iosepa Farm is located approximately seven miles north.

With the exception of the Hatch Farm owned by Petitioner Castle Rock, all of the farms owned by Castle Rock and Skull Valley Co. are located along the Skull Valley road and the proposed transportation route for the PFSF. The combined acreage currently being actively irrigated exceeds 3,000 acres; the remaining 64,000 acres owned by Petitioners are being used for related livestock (both cattle and sheep) and farming activities.

The farms owned by Petitioners are irrigated in the early spring months by water collected from the Stansbury Mountain located to the east of the PFSF site. During the summer months, this water is of necessity supplemented by water obtained from wells located on each of the farms. The farms currently and historically produce a variety of crops, including alfalfa, oats, barley and wheat. The alfalfa is fed to both beef cattle and to dairy cattle which produce milk for the Utah area. The grains are typically sold to a third party and ultimately are used for human consumption or are fed to beef or dairy cattle.

Livestock grazing takes place on native range land on both private land owned by the Petitioners and on land owned by the Bureau of Land Management (including the

Skull Valley Grazing Allotment and the South Skull Valley Grazing Allotment). This range land surrounds the Skull Valley Indian Reservation and the proposed PFSF on three sides and with the exception of the Dugway Proving Grounds federal facility, is the largest land and economic operation in Skull Valley. The 4,000 combined mother cows being run by Petitioner Ensign Ranches represent a significant investment with each animal being valued at current market prices of approximately \$800, or a combined value of approximately \$3.2 million. The cattle are raised and marketed for human consumption.

As part of the livestock and farming operations, Petitioners also own and operate approximately ten separate homes located in Skull Valley which, with the exception of the Hatch Farm home, are all located north of the PFSF site along the Skull Valley Road. Each of these homes is occupied by an employee and that employee's family. These homes are all provided culinary water through wells located adjacent to the homes.

The proposed PFSF is located "upstream" hydro-geologically from numerous wells used by Petitioners north of the PFSF site. This includes wells used for both human consumption, and for farm irrigation and the watering of livestock.

In conducting their farming and ranching operations, Petitioners rely heavily on the Skull Valley Road. As the only transportation corridor in Skull Valley, this road is used as exclusive access to all of the homes for employees of Petitioners. This road is also used to herd cattle between various pastures and shipping locations as well as being used heavily for the transportation of farm equipment and the crops produced from the farms.

In addition to their farming and ranching operations, Petitioners Castle Rock and Skull Valley Co. own the 67,000 acres for investment purposes. The Salt Lake Valley is located less than sixty miles from the property owned by Petitioners in Skull Valley. The Salt Lake Valley area is one of the fastest growing areas in the United States, and Petitioners believe the future potential for development of homes and related businesses in Skull Valley is significant. This potential is significantly increased due to the fact that currently Skull Valley is a pristine and unspoiled location and as such provides an attractive alternative to the increasingly urbanized Salt Lake Valley and nearby Tooele Valley.

Furthermore, Petitioners have ongoing discussions with several milk dairies, feed lots, and related food production businesses regarding relocations to Skull Valley on Petitioners' land. Due to Skull Valley's vast open space, clean water, the availability of dairy and beef cattle feed from Petitioners' farms, and the pristine and unspoiled environment, Skull Valley is a very attractive alternative to agriculturally oriented food production businesses looking to relocate from areas in Utah that are no longer satisfactory for such businesses due to their increasing urbanization. These opportunities are significant for Petitioners.

**B. PFS Application for PFSF**

On June 20, 1997, PFS filed an application with the NRC for a materials license to possess spent fuel and other radioactive materials associated with spent fuel storage in an independent spent fuel storage installation located on the Skull Valley Goshute Indian Reservation in Skull Valley, Utah. The term of the license would be for 20 years.

Notice of application was published by the NRC on July 31, 1997, 62 Fed. Reg. 41,099. References are made herein to PFS's License Application ("Application") and the accompanying Environmental Report ("ER"), Safety Analysis Report ("SAR") and Emergency Plan ("EP").

#### IV. PETITIONERS HAVE STANDING TO INTERVENE

Under the Atomic Energy Act and the rules and regulations of the Nuclear Regulatory Commission, "any person whose interest may be affected by a proceeding and who desires to participate" may file a petition to intervene. 10 C.F.R. § 2.714(a)(1); 42 U.S.C.A. § 2239(a)(1)(A). A party's right to intervene is based upon whether (1) the action being challenged could cause injury-in-fact to the petitioner, and (2) such injury is arguably within the zone of interest protected by the Atomic Energy Act or the National Environmental Policy Act (hereinafter "NEPA"). Vermont Yankee Nuclear Power Station, LBP-90-6, 31 NRC 85, 89 (1990), citing Portland General Electric Co., CLI-76-27, 4 NRC 610, 613-14 (1976).

##### A. Petitioners Have Standing to Intervene.

Petitioners would suffer injury-in-fact well within the zone of interest protected by the Atomic Energy Act and NEPA if PFS is allowed to proceed with its planned PFSF. Petitioners own and conduct agricultural operations on the lands immediately adjacent to the PFSF site. Petitioners have vital interests in protecting the welfare of their employees; the economic viability of their farming and ranching operations; their ability to use the Skull Valley Road for such cumbersome tasks as moving livestock and farm equipment; the integrity and quality of their water supplies; the quality of their

agricultural crops, including those crops used directly for human consumption directly and indirectly through milk and beef production; the investment value of their land in Skull Valley; and their ability to develop their land for industrial, residential, and recreational uses. All of these interests are threatened by the proposed PFSF. Apart from the residents of the Skull Valley Indian Reservation, Petitioners and their resident employees are the neighbors most vulnerable to the impacts of the PFSF. The proximity of Petitioners' lands and operations is sufficient alone to establish the requisite injury-in-fact entitling Petitioners to participate in the licensing proceeding. Florida Power & Light Co. (St. Lucie Nuclear Power Plant, Unit 1) CLI-89-21, 30 NRC 325, 329 (1989). Thus, Petitioners are entitled to intervene in this proceeding for the purpose of protecting their interests from the injury-in-fact threatened by the proposed PFSF.

**B. Petitioners Will Suffer Injury-In-Fact If the NRC Licenses A PFSF In Skull Valley.**

Petitioners are threatened by "distinct and palpable" injuries directly "traceable" to the proposed PFSF license application, which can be redressed by a decision denying the application. Kelly v. Selin, 42 F.3d 1501, 1508 (6th Cir.), cert. denied, 115 S. Ct. 2611 (1995), quoting Warth v. Seldin, 422 U.S. 490, 501 (1975). If the proposed facility is licensed, there is risk of an accidental radioactive release from the dry casks that would injure and compromise the health and safety of the Petitioners' employees and the consumers of their agricultural products, the integrity of the natural environment, and Petitioners' economic interests.

**1. Petitioners are Threatened by Potential Releases of Radioactive Substances.**



Accidental releases of radioactive substances could occur through transportation accidents, seismic events, inadequacy of the casks to provide absolute long-term containment of radioactive substances, or cask design or manufacturing flaws. A critical accident could cause a radiological explosion. An accident could also occur by sabotage or terrorism, or a cask dropped during transfer, or by many other means. EP, § 2.4; SAR, ch. 8.

An accidental release of radioactive substances is a direct threat to Petitioners' interests because of proximity to the PFSF site. Such a release could contaminate the air, ground water, and surface water, the land, and surrounding people, animals, and plants. The employees and livestock of Petitioners could suffer immediate, severe radioactivity related illness or death from high-level radiation exposure if a cask were to explode or be fractured by sabotage. Cancer and leukemia and cellular or genetic defects could be caused by high or low level exposure. An accidental release would also cause significant adverse economic consequences, including diminished property values and a correlating decline in income and the agricultural and real estate development viability of the area.

Petitioners are concerned that PFS's license application for the PFSF lacks sufficient measures to protect them from such an accidental release, thus posing an undue risk to the health and safety of their employees. Petitioners' concerns may be redressed by denial of the license application on the ground that it fails to provide sufficient measures to protect health and safety.

2. Construction Activities Will Adversely Impact Petitioners' Interests.

Petitioners are concerned about the effects of construction activities related to the PFSF upon the health, safety, and welfare of their employees, their agricultural operations (and crops and beef produced thereby), and the value of their land. The Application states that a concrete batch plant will be built as part of the PFSF. ER, p. 3.2-2. The particulate emissions from this plant and the traffic hauling materials to and from the plant will cause significant damage to Petitioners. Likewise, the construction activity relating to the PFSF will continue for almost the entire initial permit term for the PFSF, ER, pp. 4.1-4 and 4.1-5, and will cause significant damage to Petitioners.

### 3. The Quality of Petitioners' Water is Threatened.

The PFSF would be serviced by a septic tank system. ER, pp. 3.3-4 and 3.3-5. This will apparently be the only method of disposal of sewage and wastewater related to the site, including disposal of human waste and water from sewers, drains, and the operations of the PFSF. Such waste water could contain radioactive substances. Petitioners believe the septic tank system creates a substantial potential of contamination to the ground water supply upon which Petitioners rely for water for human consumption, livestock, and farm crops.

Furthermore, the PFSF application states that a water retention pond will be placed on the north end of the site, presumably near lands owned by Petitioner. Again, the potential for groundwater pollution is significant as is the potential for overflow onto Petitioners' lands. The potential for such contamination is a significant threat to the health, safety, and welfare of Petitioners, their employees, and the general public that consumes beef and farm products produced by Petitioners.



4. Risks Outweigh Benefits.

Petitioners are also concerned that the Environmental Report contains insufficient information on which to base a decision on the relative risks, costs, and benefits of the proposed project, or on alternatives to the project. A critical concern is the prospect of indefinite storage because of the absence of firm assurances by the applicant that all waste at the site will be removed and decommissioning of the PFSS completed by any fixed date. Without such assurances, Petitioners believe the PFSS must be evaluated by the NRC as a permanent repository for high level nuclear waste and must satisfy all requirements imposed on a permanent repository. Petitioners believe that if supporting environmental documents, including the ER and the forthcoming Environmental Impact Statement ("EIS"), were to fully disclose the costs and risks of the proposed PFSS and the open ended nature of its operation, the NRC would choose not to license the facility. Thus, preparation of a complete and accurate ER and EIS would, in all likelihood, result in the denial of the permit, and thereby redress Petitioners' concerns.

5. The Application Fails to Describe the Nature and Proximity of Petitioners' Lands and Agricultural Operations or Potential Impacts Thereon.

The Application does not address or acknowledge Petitioners' farming operation and employee housing existing immediately north of the PFSS site. The Application does not mention that Petitioners are engaged in the activities of producing thousands of tons of crops that are consumed directly by humans, beef cattle, and dairy cattle. Furthermore, the livestock owned by Petitioners that graze in the area yield almost 5,000,000 pounds of beef annually, which is all consumed by humans. In addition, these

crops and livestock, as well as the people living on Petitioners' lands, all depend on ground water in the area for their survival. Were the PFSF to fully disclose the impact and risk associated with the PFSF as it relates to the above described interest of Petitioners, the NRC would choose not to license the facility and thereby redress Petitioners' concerns.

6. Petitioners' Use of the Skull Valley Road and Surrounding Lands Will be Impeded.

Petitioners believe that the proposed activity related to the PFSF will create significant problems and hardships relating to use of the Skull Valley Road. In order to move cattle and farm equipment, Petitioners rely on the Skull Valley Road and have done so for over 50 years. Petitioners' activities at times require traffic to stop for periods of time and also increase the dangers posed by any method of shipping nuclear material along this road. In addition, due to the number of livestock adjacent to the road, it is fairly common to have livestock running loose on the road, thereby creating a significant and uncontrolled risk for shipping nuclear material. Had the license application examined these issues and accurately explained the use and danger of the Skull Valley Road, the results would be a denial of the permit by the NRC. Furthermore, any expansion of the road will exceed the road's legal right-of-way and will inevitably involve infringement upon Petitioners' property adjacent to the road.

7. Petitioners' Lands and Operations Would be Damaged by the Alternative Rail Line.

The Application states that a new railroad spur "may" be constructed by PFS to connect the PFSF directly to the Union Pacific railroad mainline approximately 24 miles



to the north. ER, § 4.4. The estimate "assumes" that construction will occur within the existing Skull Valley road right-of-way and that no additional land acquisition will be required. ER, p. 4.4.1. The Application is seriously deficient in the description of the potential railroad and its implications. Affected parties should know either that the railroad is planned or that it is not. If PFS must weigh certain factors before deciding between the road access and the rail spur access alternatives, it should have done so before submitting the Application. If PFS has valid reasons for deferring the selection, it should state them and also describe what factors will be considered in making the decision. The absence of such information limits Petitioners' ability to assess the likelihood of a rail spur and to understand the factors pro and con concerning whether the rail spur is preferable to the road access alternative.

Land on both sides of the existing Skull Valley Road north of the Skull Valley Indian Reservation is held by Petitioners. Adverse effects of air pollution, noise, surface disturbances, traffic increases, rail crossings, fences, drainage diversions, and other impacts of a rail spur both during the construction and operating phases would impact Petitioners' employees, their ability to move livestock and vehicles on and off the road, and potentially their ability to use adjoining lands depending upon exactly how much land would be used for the rail spur and a buffer area. The absence of a detailed map showing the exact route and dimensions of the rail line and the boundaries of the existing right-of-way prevents Petitioners from assessing the scope of such impacts.

PFS has also not provided details concerning the road right-of-way itself. Does Tooele County hold a granted right-of-way? If so, is the right-of-way broad enough to

encompass construction and operation of a railroad? Are the dimensions sufficient to accommodate both construction and operational activities? Any deficiencies in these areas may necessitate a need to acquire additional property rights from Petitioners even if Tooele County were to grant necessary right-of-way use rights to PFS for the existing road (a factor that is also not discussed).

8. The Value of Petitioners' Property Will be Reduced and Additional Development of Petitioners' Lands Will be Precluded.

Finally and very significantly to Petitioners, the proposed PFSF would eliminate or sharply reduce the investment value and potential use of Petitioners' lands. The ability to locate future homes and businesses in Skull Valley will be directly related to the PFSF, the dangers associated with such a facility, and the public perception of the dangers associated with such a facility. Due to the nature of the PFSF, the food production businesses currently discussing relocation of dairies, feed lots, and businesses with Petitioners will terminate such discussions and have no interest in Skull Valley. Producing beef and dairy products next to or in proximity to the PFSF is not an acceptable risk for such enterprises. Likewise, residential and commercial development adjacent to the PFSF would no longer be desirable or economically feasible. These reactions by potential users would cause an immediate reduction in the value of Petitioners' lands as well as loss of future economic benefit. Diminution of property value due to public perception, even when it may be unreasonable, is judicially recognized as a damage and injury-in-fact. See City of Santa Fe vs. Komis, 845 P.2d 753, 756 (N.M. 1992). Such impacts on property values and future land uses are not



considered in the Application and any potential negative impacts of future land use are simply denied. ER, § 4.2.1.

**C. Petitioners' Interests Fall Within the Zone Protected by the Atomic Energy Act and National Environmental Policy Act.**

Petitioners' concerns regarding the health and safety risks posed by the proposed PFSF fall within the "zone of interest" protected by the Atomic Energy Act, whose purposes include the protection of the public from undue hazards posed by the nuclear industry. Vermont Yankee, supra, LBP-90-6, 31 NRC at 89; 42 U.S.C. §§ 2210(b), 2133(d). The "zone of interest" recognized under NEPA also encompasses Petitioners' interest in protecting the quality of the environment and the direct and indirect effects on Petitioners' lands, facilities, and operations arising from adverse environmental impacts. See Kelly v. Selin, 42 F.3d at 1509, citing Lujan v. Defenders of Wildlife, 112 S. Ct. 2130, 2149 (1992) (holding that injury to economic interests through loss of property values confers standing under NEPA).

**V. STATEMENT OF ASPECTS ON WHICH PETITIONERS WISH TO INTERVENE.**

Pursuant to 10 C.F.R. § 2.714(a)(2), the Petitioners are required to state the "specific aspect or aspects of the subject matter of the proceeding" as to which they wish to intervene. The purpose of this requirement is not to judge the admissibility of the issues, as the Petitioners have the right to amend their petition to intervene with contentions later in the proceeding. Consumers Power Co. (North Anna Power Station, Units 1 and 2), LBP-78-37, 8 NRC 275 (1978).

The aspects of the subject matter on which Petitioners seek to intervene are as follows:

1. The Application violates NRC regulations and NEPA because it fails to assess the potentially indefinite life span of the facility and fails to describe the risks and costs that could reasonably be anticipated during such a facility life span. The Application further contains no assurances that Applicant will remain responsible for and financially able to operate the facility during an indefinite life span.

2. The Application poses undue risk to public health and safety because it fails to provide reasonable assurances that Applicant will not abandon the facility and the nuclear waste or that Applicant will cease to exist once the facility is approved and constructed.

3. The Application poses undue risk to public health and safety because it fails to evaluate adequately risks from large magnitude seismic events to which the Skull Valley area is subject.

4. The Application poses undue risk to public health and safety because it lacks sufficient provisions for prevention of and recovery from accidents during delivery, off-loading, handling, and storage resulting from such causes as sabotage, cask drop and bend, or improper welds.

5. The Application poses undue risk to public health and safety because it lacks sufficient provisions for protection against transportation accidents.

6. The Application poses undue risk to public health and safety because it fails to provide an adequate emergency plan. In particular the Application does not

- address the interrelationship between potential emergencies at the nearby Dugway Proving Grounds facility and at the PFSF and coordinated responses thereto.
7. The Application poses undue risk to public health and safety because the proposed site cannot be adequately protected against groundwater contamination, due to the facility design, its location, and the nature of the soils and bedrock of the area.
8. The Application poses undue risk to public health and safety because it does not address the potential of overflow from retention ponds and the environmental hazards created by such overflow.
9. The Application poses undue risk to public health and safety because it fails to provide for adequate radiation monitoring to protect the health of the public and workers and for any activities of Petitioners, including, but not limited to livestock grazing and farming and residential and commercial development. It also fails to provide for adequate radiation monitoring necessary to facilitate radiation detection, event classification, emergency planning, and notification, including systematic baseline measurements of soils, forage, and water from Petitioners' adjoining lands.
10. The Application poses undue risk to public health and safety because it fails to provide adequate protection of the PFSF against intruders. For instance the area is protected only by a fence that would not deter a determined intruder. Minimal protection would be afforded to tracks or rail cars along the primary access route which crosses Petitioners' lands.
11. The Application poses undue risk to public health and safety because it fails to provide adequate proof of financial assurances that PFS will, as an independent

private entity, have the financial capacity or will provide bonding sufficient to cover all costs incident to the PFSF throughout its entire life, including payments to third parties for damages, costs of accidents and other contingencies, costs of removal and restoration and costs of securing alternative repository sites for all casks and/or the nuclear waste contents thereof upon closure of the PFSF, whether planned or premature.

12. The Application poses undue risk to public health and safety because the decommissioning plan for the PFSF fails to describe with specificity the storage site or sites to which the approximately 4,000 casks from the PFSF will be transported.

13. The Application violates NRC regulations and NEPA because the ER fails to address adequately the status of compliance with all Federal, State, regional, and local permits, licenses and approvals required for the facility. See 10 C.F.R. §§ 51.71(d), 72.98. For example, the ER fails to adequately address Federal water discharge requirements and the certifications and permits required for water and storm water discharges. State air quality control requirements applicable to construction, transportation, and operational activities are not adequately addressed.

14. The Application violates NRC regulations and NEPA because the ER fails to give adequate consideration to alternatives, including alternative sites, alternative technologies, and the no-action alternative. See 10 C.F.R. §§ 51.45(c).

15. The Application violates NRC regulations and NEPA because the ER fails to give adequate consideration to the adverse impacts of the proposed PFSF, including the risk of transportation accidents, the risks of contamination of human and livestock food sources, the risks of contamination of water sources (including ground water



contamination arising from leaching of contaminated soils), the risks of particulate emissions from construction and cement activities, and similar risks. See 10 C.F.R. § 72.100.

16. The Application violates NRC regulations and NEPA because the ER fails to give adequate consideration to the adverse impacts the proposed PFSF will have upon the quality of ground water relied on by Petitioners and, by reason of consumption by the PFSF of water from planned wells, upon Petitioners' superior water rights. See 10 C.F.R. § 72.98.

17. The Application violates NRC regulations and NEPA because the ER does not contain a reasonable comparison of the costs and benefits of the proposed PFSF. See 10 C.F.R. § 51.45(c).

18. The Application violates NRC regulations and NEPA because the ER does not address the impact of the proposed facility upon the agriculture, recreation, wildlife, endangered species, and land quality of the area. See 10 C.F.R. § 72.100(b).

19. The Application violates NRC regulations and NEPA because the ER does not adequately consider the impact of the facility upon future economic and residential development in the vicinity, potential differing land uses, property values, the tax base, and the loss of revenue and opportunity for agriculture, recreation, beef and dairy production, residential and commercial development, and investment opportunities, all of which have compromised the economic base and future use of Skull Valley and the economic interests of Petitioners, or how such impacts can be mitigated. See 10 C.F.R. §§ 72.90(e), 72.98(c)(2).

20. The Application violates NRC regulations and NEPA because the ER does not adequately consider the impact of the facility upon the production of the agricultural products for human consumption by Petitioners and others in the area. See 10 C.F.R. § 72.98(b).

21. The Application violates NRC regulations and NEPA because the ER does not adequately consider the impact of a septic tank system on the ground water and ecology of the area and the related potential of this system to injure Petitioners. See 10 C.F.R. §§ 72.98(b); 72.100(b).

22. The Application violates NRC regulations and NEPA because it fails to describe the considerations governing selection of either the Skull Valley road or the rail spur access alternative over the other and the implications of such selection in light of such considerations. See 10 C.F.R. §§ 51.45(c), 72.100(b).

23. The Application violates NRC regulations and NEPA because it fails to describe in detail the route of the potential rail spur, property ownership along the route, and property rights needed to construct and operate the rail spur. See 10 C.F.R. § 72.90(a).

24. The Application violates NRC regulations and NEPA because it fails to describe adequately the nature and ownership of right-of-way rights that would permit PFS's contemplated improvements of the Skull Valley Road and what permits and approvals from or agreements with the owner or owners thereof are needed for such improvements. See 10 C.F.R. § 72.90(a).



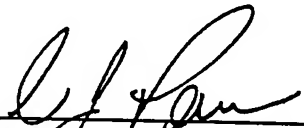


25. The Application violates NRC regulations and NEPA because it fails to describe with particularity, using appropriate maps, land use patterns and ownership as to lands in the vicinity of the PFSF and along the 24 mile access route, including without limitation, homes, outbuildings, corrals and fences, roads and trails, pastures, crop producing areas, water wells, tanks and troughs, ponds, ditches and canals. See 10 C.F.R. §§ 72.90(a), 72.90(c), 72.98(b).

#### V. CONCLUSION

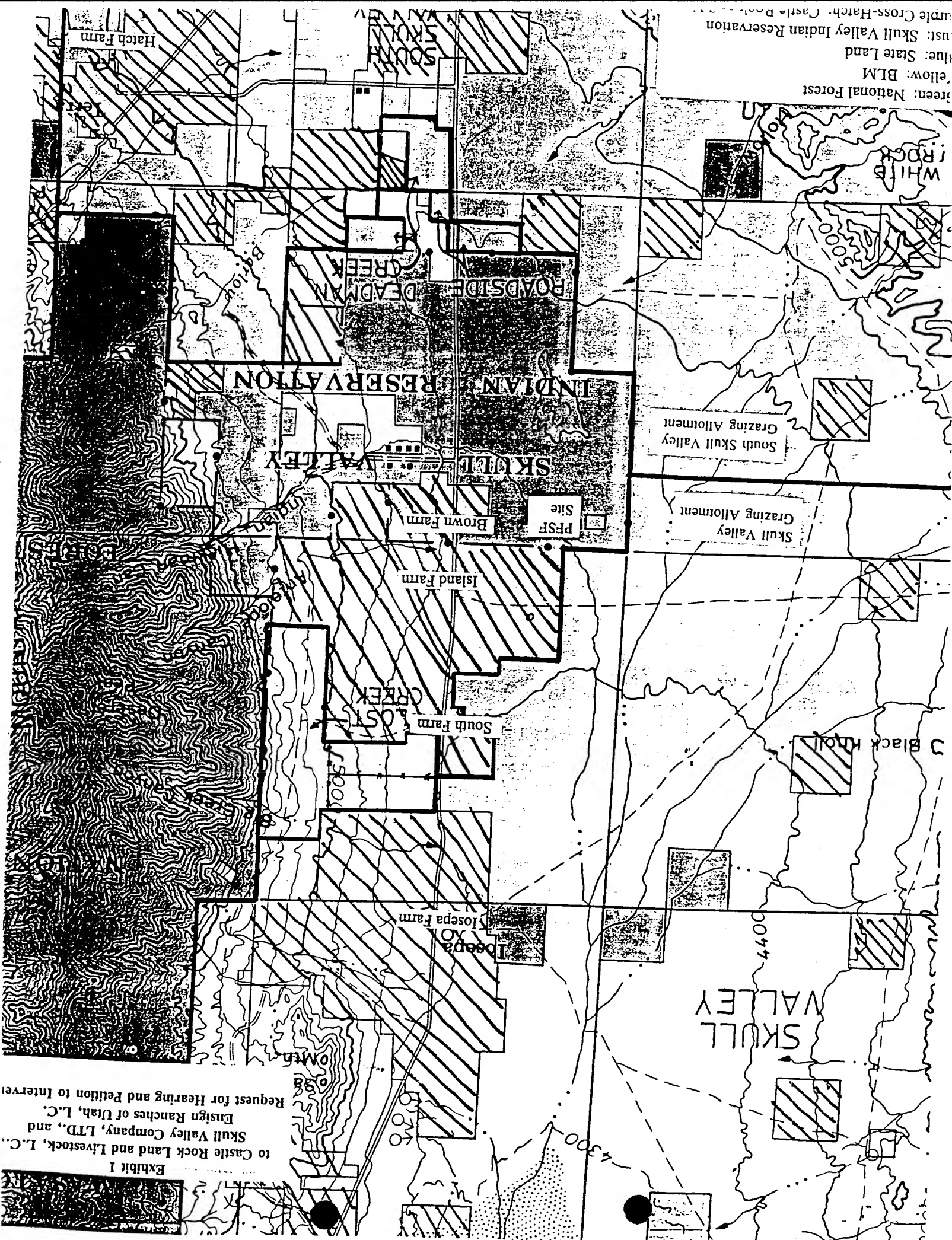
For all of the reasons set forth above, Petitioners must receive a hearing, and be permitted to intervene, pending admission of their contentions.

Respectfully Submitted,

  
Clayton J. Parr (Utah Bar #2529)  
Michael M. Later (Utah Bar #3728)  
Steven J. Christiansen (Utah Bar #5265)  
KIMBALL, PARR, WADDOUPS, BROWN & GEE  
Attorneys for Petitioners  
185 S. State Street, Suite 1300  
P.O. Box 11019  
Salt Lake City, UT 84147-0019  
(801) 532-7840  
(801) 532-7750 (facsimile)

Dated: Sept. 11, 1997

Exhibit 1  
 to Castle Rock Land and Livestock, L.C.,  
 Skull Valley Company, LTD., and  
 Ensign Ranches of Utah, L.C.  
 Request for Hearing and Petition to Intervene





10-1-1

CERTIFICATE OF MAILING

I hereby certify that I caused to be sent by Federal Express overnight courier service an original and two copies of the foregoing CASTLE ROCK LAND AND LIVESTOCK, L.C., SKULL VALLEY COMPANY, LTD, and ENSIGN RANCHES OF UTAH, L.C. REQUEST FOR HEARING AND PETITION TO INTERVENE to the following:

Attn: Docketing & Services Branch  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop: 016G15  
11555 Rockville Pike, One White Flint North  
Rockville, MD 20852-2738

and also certify that I caused to be mailed first class postage prepaid a copy of the foregoing to the following:

Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop: 015B18  
11555 Rockville Pike, One White Flint North  
Rockville, MD 20852-2738

Jay Silberg  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street N.W.  
Washington, D.C. 20037-8007

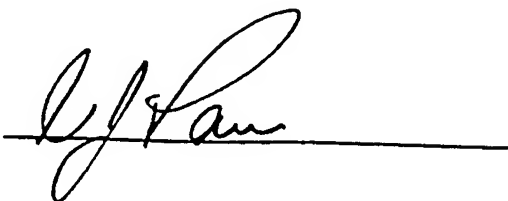
Leon Bear, Chairman  
Skull Valley Band of Goshute  
Skull Valley Reservation  
P.O. Box 150  
Grantsville, Utah 84029

John Paul Kennedy  
1385 Yale Avenue  
Salt Lake City, Ut 84105

Denise Chancellor  
Assistant Attorney General  
Utah Attorney General's Office  
160 East 300 South, 5th Floor  
P.O. Box 140873  
Salt Lake City, UT 84114-0873

Mark Delligatti  
U.S. Nuclear Regulatory Commission  
Spent Fuel Project Office  
Mail Stop 06G22  
Washington, D.C. 20555

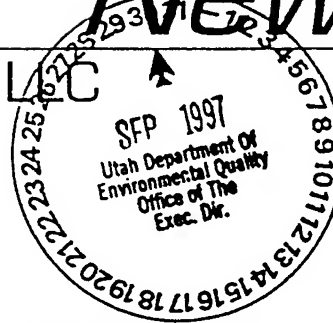
Dated this 11<sup>th</sup> day of September, 1997.



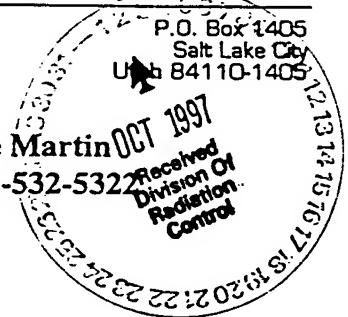
PFS

Private Fuel Storage LLC

Volume 1, Number 1  
September 29, 1997



Contact: Sue Martin  
801-532-5322



### PFS Supports Participation by State and Other Parties in Licensing Process

PFS is responding to petitions filed by four parties requesting standing to intervene in the licensing process. PFS will tell the NRC it will not oppose the standing of the State of Utah, the Ohnga Gaudadeh Devia (a group led by several members of the Skull Valley Band of Goshutes), or Castle Rock Land and Livestock and two other companies that own and operate ranches in Skull Valley. PFS may, as the licensing process goes forward, take exception to specific contentions that may be filed by these groups. PFS and the NRC staff have opposed the standing of the fourth petitioner, the Confederated Tribes of Goshutes, whose land is located along the Utah-Nevada border. This group is located too far from the site to warrant standing under NRC guidelines.

### Atomic Safety and Licensing Board Establishes Pre-Hearing Schedule

In an initial pre-hearing order, the Atomic Safety and Licensing Board, which is overseeing the hearing process for the PFS application, established the following schedule: By Sept. 29, participants may file answers to the hearing requests/intervention petitions filed by other participants. By Oct. 24, petitioners must file supplements to their petitions, which must include a list of contentions and supporting bases. PFS must answer those contentions on or before Nov. 10. During the week of Nov. 17, the three-member Licensing Board will visit the proposed PFS site in Skull Valley and will hold a pre-hearing conference in the Salt Lake City area.

### PFS Holds First Public Open House on Sept. 11

Residents of Tooele County were given the opportunity to attend the first public open house hosted by PFS and the Skull Valley Goshute Tribe. Through "hands-on" exhibits, videos and handouts visitors learned about naturally occurring radiation, dry cask storage systems, and progress on the federal government's Yucca Mountain, NV permanent repository. The director of the Governor's opposition to the project also participated, thus giving visitors an opportunity to consider all sides of the issue.

### PFS Member Utilities Part of Suit Against the U.S. Department of Energy

On Sept. 25, counsel for PFS argued a significant nuclear waste case on behalf of the nuclear utility industry before the U.S. Court of Appeals for the District of Columbia Circuit. The case involves the attempt by the nuclear utilities, and by some states and state regulatory commissions, to force the U.S. Department of Energy (DOE) to begin taking the utilities' spent nuclear fuel by the deadline of Jan. 31, 1998, a date fixed by Congress when it enacted the nuclear waste policy act in 1982. The case argues that if the DOE cannot, or will not, accept the

utilities' spent fuel by that date, the utilities should be allowed to escrow future payments they would make to the Nuclear Waste Fund. This fund, which grows from a surcharge paid by utility customers, was set up to help the federal government pay for a permanent repository to store the utilities' spent fuel. However, less than half of the \$13 billion collected thus far has been spent on development of the permanent repository; the remainder has been used for federal deficit reduction, and the repository is at least 12 years from completion. Although invited to participate in the suit, the state of Utah so far has not done so.

### **NRC Names Atomic Safety and Licensing Board**

The Nuclear Regulatory Commission named the three-person Atomic Safety and Licensing Board that will oversee the hearing process for the licensing of the PFS storage facility proposed for Skull Valley. The members are G. Paul Bollwerk, III, an attorney with experience as an administrative judge on the Atomic Safety and Licensing Appeal Panel; Jerry R. Kline, a scientist and author in the fields of radioecology and soil science, who also has experience with the Atomic Energy Commission and the NRC; and Thomas D. Murphy, a health physicist who has worked with the Department of the Navy, in the private sector, and on the NRC staff.

### **Public Document Room Designated**

The NRC has designated the Marriott Library at the University of Utah as the local "public document room" for materials relating to the PFS licensing process. Approximately Oct. 1, the library will begin receiving copies of studies, correspondence between the NRC, PFS and others participating in the licensing process, and other relevant materials. PFS has already placed a copy of its license application at the library.

### **NRC Environmental Review Process Begins**

The NRC is expected to designate a nationally recognized laboratory to review the PFS environmental study, and participate in field research, public meetings, and the drafting of the commission's "environmental impact statement." The NRC is expected to seek public input on the "scope" of the environmental analysis. This most likely will occur in a public meeting late this year or in early 1998.

### **Would You Like to Know More About the PFS Project?**

PFS representatives will provide background information, make presentations, or set up displays for interested civic or school groups. A mailing list is also being developed to keep interested individuals informed as the three-year licensing process proceeds. To request a presentation, or to add your name to the mailing list, please call Sue Martin, public affairs consultant, at 532-5322 in Salt Lake City.

In the Matter of: )  
)  
) Docket No. 72-22  
PRIVATE FUEL STORAGE, LLC )  
(Independent Spent Fuel )  
Storage Installation) September 11, 1997

Notice of a proposed 10 CFR Part 72 licensing action by the Nuclear Regulatory Commission (NRC), published in the Federal Register July 31, 1997, affords the opportunity to request a hearing and petition to intervene. 62 Fed Reg 41,099 (1997); 10 CFR § 2.105. The State of Utah hereby submits its request for a hearing and petition for leave to intervene, pursuant to 10 CFR § 2.714(a), in the proceeding to license an offsite Independent Spent Fuel Storage Installation (ISFSI) proposed to be constructed by a consortium of nuclear power generators on an Indian reservation located near the Salt Lake City metropolitan area. The State's petition is based on a copy of the license application that the applicant delivered to the State, which it purported to be the same as the application submitted to the NRC, with the exception of the Physical Security Plan required by 10 CFR Part 72, subpart H.

## II. BACKGROUND

### A. Procedural History

On June 25, 1997, Private Fuel Storage, LLC (PFS) submitted a license application to the NRC<sup>1</sup>, pursuant to 10 CFR Part 72, to possess spent fuel and other radioactive materials associated with spent fuel storage in an offsite ISFSI, to be located on the Skull Valley Reservation. On June 27, 1997, the State of Utah filed a 10 CFR 2.206 petition with the NRC requesting the NRC return the PFS's application because PFS did not give emergency response organizations 60 days to review the Emergency Plan as required by 10 CFR § 72.32(a)(14). On July 21, 1997, the State of Utah filed a second 2.206 petition with the NRC, which detailed basic and fundamental omissions in PFS's license submittal, and pointed out that it was a waste of resources for the NRC, the State of Utah, and the public to review the merits of such a hollow application.

A Federal Register notice, inviting public comments on where to set up a local public document room, was published July 7, 1997, the deadline for comments being July 25, 1997. 62 Fed. Reg. 36,320 (1997). On July 22, 1997, NRC announced that it will consider PFS's Part 72 license application. A "Notice of Consideration of Issuance of a Materials License for the Storage of Spent Fuel and Notice of Opportunity for a Hearing" was published in the Federal Register on July 31, 1997. 62 Fed. Reg. 41,099

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<sup>1</sup> The PFS application was dated June 20, 1997 but was not delivered to the NRC until June 25, 1997.



(1997).

As of the date of the July 31 Federal Register notice, the NRC had not acknowledged receipt of the State of Utah's 2.206 petitions, nor acted on either of them. In a letter dated August 6, 1997, from Charles J. Haughney, NRC rejected the State's two 2.206 petitions stating that the requests did not seek enforcement action but were licensing issues. By filing this petition to intervene, the State does not waive the objections raised in its two 2.206 petitions.

#### B. Factual Background

The license, if granted, would authorize PFS to construct and operate an ISFSI on the Skull Valley Reservation for the storage of up to 4,000 casks of spent nuclear fuel rods in dry cask storage, for an initial license term of 20 years. The casks would be shipped to the ISFSI from domestic nuclear power plants throughout the United States by rail to a railhead 24 miles north of the Indian reservation. The initial license term would be for 20 years. The application does not give details about how PFS will actually transport the casks from the railhead to the ISFSI. In passing, PFS mentions that the casks will be transported from the railhead to the ISFSI by either building a rail spur or transferring the casks to heavy haul truck.

The license application gives the misleading impression that the proposed ISFSI site is an isolated place in the middle of a barren desert. However, the site is only 45 miles from Salt Lake City, and the intermodal transfer site directly abuts U.S.

Interstate 80, a heavily traveled major interstate highway. See Map, attached as Exhibit 1. The ISFSI site itself is also on a populated Indian reservation, and is surrounded by military installations, industrial facilities, and farms and ranches. In addition, the area is an important wildlife habitat.

The Skull Valley Reservation is home to approximately 25 to 32 tribal members, who live within three miles of the site. Three miles south of the proposed site, and on the reservation, is the Tekoi Test Facility, which employs tribal members. The facility conducts hazard testing of explosives and stores rocket motors used in aging studies.

Within three to thirty five miles of the proposed site, there are a number of military and industrial facilities. The Dugway Proving Ground, located 12.6 miles southwest of the proposed ISFSI, is used for combat training using live munitions and testing of weapons, and biological and chemical agents. Dugway is also the proposed landing site of the X-33 hydrogen-powered space plane. The facility has 600 employees, which may surge to 12,000 for some missions, and a residential population of 1,761. Portions of the property are also accessible to the public for hunting and recreational activities. Another military weapons testing facility, located about 18 miles west-northwest from the proposed ISFSI site, is the Utah Test and Training Range (UTTR). The UTTR is used by the U. S. Air Force as a training range for air-to-air and air-to-ground live munitions training. The Army's Deseret Chemical Depot,

located 20 miles east of the proposed site, employs about 750 people. A major chemical weapons storage site, it is also the only facility in the continental United States for destroying chemical weapons, including deadly nerve gas and blister agent. The Tooele Army Depot, located 16.2 miles north of the proposed ISFSI, stores, detonates, burns, and destroys conventional munitions. .

Northwest of the proposed ISFSI is the Tooele County hazardous waste zone, where the following facilities are located: the APTUS hazardous waste incinerator (25 miles northwest), the Envirocare low level radioactive and mixed waste landfill (22 miles), the Clive Incineration Facility (25.1 miles northwest), and the Grassy Mountain hazardous waste landfill (31.1 miles northwest). These facilities employ approximately 500 individuals. See Map, Exhibit 1.

Rowley Junction (also known as Timpie Junction), where PFS plans to transfer spent fuel casks from rail cars to trucks, directly abuts Interstate 80. Cargill, Inc., located at Rowley Junction, employs 85 to 90 people, and processes about a half million tons of salt per year for use in brine for human food products, water conditioning, and animal feed. Cargill annually dries 300,000 tons of salt in the open air, adjacent to the transfer point. Magnesium Corporation of America, a magnesium plant, employs 570 people and is located near the transfer point. Rowley Junction is the access point for both facilities. Also adjacent to the transfer point are two critical and sensitive ecosystems: a waterfowl refuge and the Great Salt Lake.

Skull Valley Road, along which the spent fuel would probably be transferred from Rowley Junction to the ISFSI, is traveled by at least 1,000 vehicles per year, including military vehicles carrying munitions. There are also farms, ranches, and homes along the road and cattle and wildlife are frequently on the road.

The City of Tooele, population 17,877, is 24 miles northeast of the proposed facility. Less than 32 miles from the proposed ISFSI are Salt Lake and Utah counties, an area where most of Utah's 1.959 million population live. Both counties are experiencing exceptional population growth. Populations figures for 1996 are: Salt Lake County 818,860 and Utah County 317,879, or total of 1,136,739. In addition, Salt Lake City will be the host site for the 2002 winter Olympic Games.

The area around the proposed site has significant wildlife habitat, including several wetlands or aquatic areas, which are extremely important resources in this arid State. The Timpie Springs Wildlife Management area, a 784-acre wetland refuge for nongame fish, waterfowl, shorebirds and migratory birds, abuts the applicant's proposed intermodal transfer station at Rowley Junction. The Great Salt Lake and the sensitive and complex ecosystem it supports lie about 22 miles downgradient of the proposed ISFSI. Seventy-five percent of Utah's vital wetlands are supported by the greater Great Salt Lake Wetland Ecosystem, a western hemisphere shorebird reserve and the world's largest staging area for Wilson's Phalaropes. Seventy-five percent of the western population of Tundra swans and 25 percent of the pintail population also

use the Great Salt Lake as a staging area. The shorebirds and waterfowl are dependant upon three species of brine shrimp flies and the brine shrimp themselves. The Great Salt Lake wetlands also provides habitat for bald eagles (a threatened species) and peregrine falcons (an endangered species). The Great Salt Lake is protected for primary and secondary contact recreation, aquatic wildlife, and mineral extraction. The Horseshoe Springs Wildlife Habitat area, 15 miles north of the proposed ISFSI, supports fish, shorebirds, and waterfowl. The Stansbury Mountains and Deseret Peak Wilderness Area, which also lie within 15 miles of the proposed ISFSI, are essential habitat for Bighorn sheep, mule deer, and antelope. Rush Valley, southeast of the proposed ISFSI, is a habitat for bald eagles and other raptors, and a recreational sporting area.

The area affected by the proposed ISFSI includes not just the facility and the transfer point, but the areas along the transportation routes. Spent fuel shipments will travel along side of the beds of rivers and lakes owned by the State, and near waterways held in trust by the State for the public. Spent fuel shipments from the east would be transported directly through or adjacent to Utah's population center along the Wasatch Front. Spent fuel shipments entering through the Utah-Wyoming border would pass through Weber Canyon (a watershed area), the city of Ogden, Davis County, and follow the shoreline of the Great Salt Lake passing though Salt Lake City on their way to Rowley Junction. The Utah-Wyoming rail line runs adjacent to the

Weber River and the eastern and southern shorelines of the Great Salt Lake. See Rail Transportation Map of Utah, attached as Exhibit 2.

As described below, the State of Utah is a person whose interest may be affected by the licensing action and meets the requirements for intervening and requesting a hearing.

### III. DISCUSSION

#### A. Requirements for Intervention

A petition for leave to intervene must address the following factors: the nature of petitioner's rights under the Atomic Energy Act to be made a party; the nature and extent of petitioner's property, financial, and other interest in the proceeding; and the possible effect of any order that may be entered on the petitioner's interest. 10 CFR § 2.714(d)(1). In addition, the petition must set forth with particularity the petitioner's interest in the proceeding and the aspects of the proceeding in which the petitioner wishes to intervene. 10 CFR § 2.714(a)(2).

The Commission looks to judicial concepts of standing in determining whether a petitioner's interest may be affected by a licensing proceeding. Thus, petitioner's injury must arguably fall within the zone of interests sought to be protected by the Atomic Energy Act (AEA) and the National Environmental Policy Act (NEPA). Atlas Corporation (Moab, Utah facility), LBP-97-9, 45 NRC 414, 416 (1997) (*referring*

to Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-1, 43 NRC 1, 6 (1996)). The petition must allege injury-in-fact; the injury must be fairly traceable to the challenged action; and the injury must be redressable by the Commission. Id.; Lujan v. Defenders of Wildlife, 504 U.S. 555, 560-61 (1992). While the petitioner has the burden of establishing standing, the presiding officer is to "construe the petition in favor of the petitioner." Georgia Institute of Technology (Georgia Tech Research Reactor), CLI-95-12, 42 NRC 111, 115 (1995); Atlas, 45 NRC at 416.

B. The State Has a Right To Be Made a Party to the Proceeding

Section 189a of the Atomic Energy Act, 42 USC § 2339(a), grants the right to a hearing "upon the request of any person whose interest may be affected by the [licensing] proceeding and shall admit such person as a party to the proceeding." As more fully discussed below, the State has a right to participate in the proceeding to protect the State's citizens, its proprietary and sovereign interests, and its interest as trustee for all waters owned by the citizens of the State.

First, under the doctrine of *parens patriae*, the State has a quasi-sovereign right to protect the interests of its citizens. Hawaii v. Standard Oil Co. of California, 405 U.S. 251, 258 (1972) (State may act to prevent or repair harm to its quasi-sovereign interests); Alfred L. Snapp & Son v. Puerto Rico, 458 U.S. 592, 600-607 (1982) (State has a quasi-sovereign interest in the physical and economic health and well-being of its residents).

Second, the State has the right to protect its proprietary and sovereign interest in its lands, waters, wildlife, and other natural resources. The State of Utah owns over 20,000 acres of school trust lands, granted to the State at statehood, around Rowley Junction, near Skull Valley Road, and adjacent to the Indian reservation. The State also owns the Timpie Springs Wildlife Management in fee. Under the "equal footing" doctrine, the State's proprietary rights extend to the bed of Utah Lake, as well as the bed, exposed shorelands, and meander line of the Great Salt Lake, which lie in close proximity to the proposed ISFSI and transportation route. Utah Division of State Lands v. United States, 82 U.S. 193, 196 (1987); Utah v. United States, 420 U.S. 304 (1975); and Utah v. United States, 403 U.S. 9 (1971); and Utah v. United States of America, 427 U.S. 461 (1976).

Finally, the State has the right to protect its interests as Trustee for all the surface and groundwater in the State. See Utah Code Ann. § 73-1-1 ("All waters in this state, whether above or under the ground, are hereby declared to be the property of the public, subject to all existing rights to the use thereof"); I.I.N.P. Co. v. State Division of Wildlife Resources, 655 P.2d 1133, 1136 (Utah 1982) ("The State regulates the use of the water, in effect, as trustee for the benefit of the people."); Tanner v. Bacon, 103 Utah 494, 136 P.2d 957 (1943). In addition, the State is recognized as the trustee for natural resources, including surface and groundwater resources, for damage recovery actions under the Comprehensive Environmental Response, Compensation,



and Liability Act, 42 USC § 9607(f).

C. The State Has Significant Interests in this Proceeding

As demonstrated above, the State has significant interest that it seeks to protect through intervention in this proceeding. First, the State has an interest in protecting the health and safety of its numerous citizens who live, work, or travel at or near the proposed facility, transportation routes, and the intermodal transfer station at Rowley Junction. The citizens protected by the State include workers at the ISFSI and people who live, work or travel nearby. The health and welfare of these citizens could be seriously jeopardized by exposure to radiation and chemicals caused by accidents or leaks during transportation, transfer operations, or operation of the facility.

In addition to health and safety, the interests protected by the State include the economic welfare of its citizens. This includes protecting the integrity of ground and surface water, which is depended upon by local ranchers for irrigation and livestock. It also includes protecting the area's tax base, which may be adversely affected by a drop in property values and loss of economic development caused by the construction of the facility in the area, or by accidents during its operation.

The State also has an interest in protecting the integrity of its wildlife and natural resources, including air, soil, ground and surface water, from contamination caused by the proposed ISFSI. In addition, the State has an interest in protecting its historical resources, which include the historic Polynesian settlement of Iosepa, located

8.7 miles northeast of the proposed ISFSI; a historic cemetery near the ISFSI; and historic Native American sites.

D. The State Will Suffer Injury-In-Fact If the NRC Licenses the Proposed ISFSI.

The State has standing to intervene in this proceeding because the proposed ISFSI threatens to cause "distinct and palpable" injury to the State and its citizens. Kelley v. Selin, 42 F.3d 1501, 1508 (6th Cir.), *cert. denied*, 115 S. Ct. 2611 (1995), *quoting* Warth v. Seldin, 422 U.S. 490, 501 (1975). In particular, issuance of a license may injure the health and safety of State and local emergency responders, ISFSI workers and Utah residents and visitors who live, work or travel near the proposed facility, intermodal transfer point, or along the transportation route. It may also injure the integrity of ground and surface water, wildlife, aquatic life, plants, and the environment.

The risk that the proposed ISFSI may cause harm to public health and safety and the environment is recognized in NRC regulations and in the application submitted by PFS. First, the NRC has made a generic determination that the construction and operation of ISFSIs constitute major federal actions significantly affecting the human environment. *See* 10 CFR §§ 51.20(a) and 51.20(b)(9). Because the NRC requires the preparation of an Environmental Impact Statement (EIS) for an ISFSI, it presumptively constitutes an activity that may injure public health and safety or the environment in whose protection the State has a vital interest.

.. Second, the NRC's emergency planning regulations at 10 CFR § 72.32 recognize the possibility of an accidental radiological release from a spent fuel storage cask, and therefore require emergency planning for ISFSI facilities. In addition, PFS's license application recognizes and discusses the possibility of accidents causing the release of radioactive material. See License Application, Chapter 8, and Environmental Report, Chapter 5. Such radioactive releases could injure workers, emergency responders, and other citizens in the vicinity of the facility.

The proposed facility threatens to cause injury-in-fact to plant workers, emergency responders, and citizens, in other ways not recognized by the applicant. For instance, the application does not discuss the risks to the public of an accident during intermodal transfer at Rowley Junction which is located next to Interstate 80, a major east-west highway and rail connection, and a major crossroads for transporting hazardous, low level radioactive, and industrial waste. It also abuts a large wetlands refuge and is the primary access and evacuation route for two major industrial facilities.

The application also fails to discuss the potential risks caused by the ISFSI's proximity to military and industrial facilities that store, test, and dispose of dangerous weapons and chemicals. For instance, explosives and massive rocket motors are tested at the Tekoi rocket motor test facility, which lies within three miles of the ISFSI, and live munitions are detonated at the nearby Dugway Proving Ground and Utah Test

and Training Range. Air Force jets drop live bombs during combat training and make emergency landings at Dugway with "hanging" bombs stuck in the bomb bay, and the X-33 space plane carrying hydrogen fuel will land at Dugway. A run away rocket motor, misfired bomb, errant explosives, or space plane or jet crash from any of these activities could cause an explosion, fire, or structural damage at the ISFSI, thus leading to radioactive releases.

The proposed site of the ISFSI is also in an area of potential seismic activity. A major earthquake could cause an accident during transportation, transfer, or storage, thus causing radioactive releases and injury to the public. Although the applicant attempts to minimize this risk, the State believes that the applicant has failed to perform an adequate analysis of the existence and capability of faults in the area. In addition to seismic activity, the site does not support the applicant's design criteria because of soil stability and consolidation, ground motion and foundation loading.

The State is also concerned that leakage of contaminants from the proposed ISFSI facility could contaminate ground and surface water in the area, thus adversely affecting public health and the environment. In addition, flooding caused by breach of the flood-prevention berm proposed by PFS could transport chemicals and radioactive contaminants into the environment. Moreover, the applicant expects to meet sanitation needs for the facility with an underground sewage (septic) system with leach field. ER p. 3.3-4,5. Such a system will provide a direct pathway to groundwater for

chemical and radiological contaminants. The retention basin at the north end of the facility may also be a direct contaminant pathway to groundwater. Discharges into the sanitary system may include drain sumps used to catch and collect water which drips from shipping casks in the canister transfer building (SAR p. 7.5-4), and employee hand washing, laundry, restrooms, showers, cafeteria, and laboratory waste streams. The potential for contamination of groundwater from this sanitary system is evident.

In addition, rail and road transportation of spent fuel casks through the State poses a direct risk of accidents and injury. Since 1988, rail accidents in Utah have ranged from 19 to 44 train accidents per year, including up to 26 derailments, nine collisions, and three accidents involving highway rail crossings. All rail shipments in Utah are on tracks owned and operated by Union Pacific. Recently, the Federal Railroad Administration has begun a safety probe of Union Pacific because of a series of train collisions. *See e.g., FRA Launches Safety Inspection Teams to Review Entire Union Pacific Railroad System*, U.S. Department of Transportation press release, August 26, 1997, attached as Exhibit 3. Granting a license to this applicant that will necessitate transportation of up to 200 shipments per year of spent fuel through the State will have the potential for accidents and discharges which may radiologically or chemically contaminate the groundwater or surface waters of the State.

The State is also concerned that air emissions from operations at the ISFSI, including emissions from the concrete batch plant, and the expansion of Skull Valley

Road or construction of a rail spur from Rowley Junction to the ISFSI site, may negatively impact ambient air and harm the health and safety of residents and others in the area.

In addition, the proposed ISFSI would significantly increase traffic and operations in Skull Valley. Thus, the threat of increased wildfires due to the increased activity in the arid desert valley may harm State and private real and personal property, wildlife, and the public.

The citizens and resources of the State will also be injured if the applicant lacks sufficient technical and financial qualifications to build and operate the facility safely. Gulf States Utilities Co. (River Bend Station, Unit 1), LBP-94-2, 39 NRC 31, 39 (1994). Moreover, in the event that the licensee and other liable parties (insolvent or decommissioned utilities) are unwilling or unable to financially resolve an incident, the State of Utah and local governments may, by default, incur the initial financial and physical burden of cleaning up an incident in order to protect the health and safety of its citizens. Thus, if adequate financial assurance and liability are not guaranteed, the State of Utah and its citizens, as taxpayers, will bear the enormous financial burden of attempting to restore the areas's environmental condition to a pre-license status.

Finally, NRC's failure to make an informed decision is a cognizable injury under the National Environmental Policy Act:

[O]nce the plaintiff has established the likelihood of the increased risk for purposes of injury in fact, to establish causation, ... the plaintiff need only trace the risk of harm to the agency's alleged failure to follow the National Environmental Policy Act's procedures. Under the National Environmental Policy Act, an injury results not from the agency's decision, but from the agency's uninformed decisionmaking.

Committee to Save the Rio Hondo v. Lucero, 102 F. 3d. 445, 451 (10th Cir. 1996).

The PFS license submittal does not contain sufficient information for the NRC to make an informed decision or for the State, or other interested parties, to make a meaningful challenge to the licensing action. Such shortcomings harm the interests of the State and its citizens.

E. The State's Concerns Fall Within the Zone of Interest Protected by the Atomic Energy Act and the National Environmental Policy Act.

The State's concerns deal with health, safety and environmental consequences and risks directly attributable to licensing this ISFSI, and as such are within the zone of interest protected by the Atomic Energy Act. Vermont Yankee, LBP-90-6, 31 NRC at 89 (the Atomic Energy Act protects the public from undue hazards posed by the nuclear industry). The zone of interest protected by the Atomic Energy Act also includes protection of property as well as protection of life from radiological hazards. Gulf States Utilities, LPB-94-3, 39 NRC at 38 (radiological protection under the Act is afforded for both human life and property); 42 USC §§ 2133(b) and 2201(b). The State's interests in protecting the quality of the environment fall within the zone of interest protected by NEPA. Babcock and Wilcox (Apollo, Pennsylvania Fuel

Fabrication Facility), LBP-93-4, 37 NRC 72, 80-81 (1993). The State may act to protect its citizen's interest under the Atomic Energy Act and NEPA. Boston Edison Co. (Pilgrim Nuclear Power Station), ASLBP 93-678-03-OLA, 1993 WL 244,926 (NRC) (Massachusetts Attorney General may intervene to protect the environment and the health and safety of its citizens located in the ingestion exposure pathway of applicant's facility).

F. The Injury Caused by the Proposed ISFSI is Redressable

The State's injury may be fully redressed by NRC's denying the license application. Injury to the State's interests in environmental protection would be redressed by preparation of a full and fair Environmental Impact Statement.



#### IV. Statement of Aspects in which Petitioner Wishes to Intervene

In accordance with 10 CFR § 2.714(a)(2), "the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes to intervene" are as follows:

1. The Nuclear Regulatory Commission lacks the statutory authority to issue a license to this applicant—a private limited liability company—for an off-site, away from reactor, centralized facility to store up to 40,000 metric tons (or 4,000 casks) of spent nuclear fuel.
2. The applicant has failed to show that it has the legal right to use the proposed site, use any land at the intermodal transfer point at Rowley Junction, or to construct a rail spur in the public right-of-way along Skull Valley Road. Thus, there is no assurance that the applicant can and will have adequate control for purposes of protecting public health and safety.
3. The application is so lacking in substantive detail that it is incapable of supporting the issuance of a license.
4. The application is so lacking in substantive detail as to deprive the State and its citizens of adequate notice of the nature of the activities and safety and environmental measures proposed by the applicant. Accordingly, the State and its citizens have been deprived of any meaningful opportunity to assess the safety and environmental impacts of the proposed ISFSI or to participate effectively in this

proceeding.

5. The proposed facility is an "installation" subject to Part 75, which the application fails to address. See 10 CFR § 75.3. For example, the application has failed to identify an IAEA material balance area or key measurement point.

6. The license application poses undue risk to public health, safety and the environment because there is no assurance that the spent fuel casks will be removed during the life of this license application, or during a one time license renewal period, or that the proposed facility will not become a defacto permanent or semi-permanent high level nuclear waste repository.

7. The license application poses undue risk to public health, safety and the environment because the applicant's proposed cask storage systems (Holtec HI-STORM 100 and Sierra Nuclear TransStor) have not yet received NRC certificates of compliance. Furthermore, the structural integrity of the existing Sierra Nuclear casks is currently under federal investigation.

8. The application does not adequately explain how the spent fuel will be packaged and removed at the end of the license term, or that it will be done safely.

9. The application is inadequate because it fails to provide for the licensing of the intermodal transfer point at Rowley Junction.

10. The application fails to demonstrate that public health and safety

and the environment will be protected during intermodal transfer of spent fuel.

11. The license application poses undue risk to public health, safety and the environment because it lacks sufficient provisions for prevention of and recovery from transportation accidents and sabotage during the shipment of casks from the nuclear reactor to the rail head at Rowley Junction, Utah.

12. The license application poses undue risk to public health, safety and the environment because the application is inadequate with respect to emergency planning for accidents during operation, intermodal transport, and transportation of casks.

13. The license application poses undue risk to public health, safety and the environment because the application has not provided sufficient general and financial information to satisfy 10 CFR § 72.22.

14. The license application poses undue risk to public health, safety and the environment because the applicant fails to satisfy the technical and financial qualifications required for a 10 CFR Part 72 application.

15. The applicant has failed to demonstrate sufficient financial assurance for decommissioning.

16. The license application poses undue risk to public health and safety because the applicant has not provided sufficient technical information as required by 10 CFR § 72.24.

17. The license application poses undue risk to public health, safety and the environment because it fails to adequately address the siting evaluation factors in 10 CFR Part 72, Subpart E.

18. The license application poses undue risk to public health, safety and the environment because it underestimates the probable maximum flood at the proposed ISFSI site by using too limited a drainage area. This could result in an under-designed facility and affect the operation, maintenance and ultimate safety of the ISFSI.

19. The license application poses undue risk to public health, safety and the environment because it fails to provide adequate design criteria as required by 10 CFR § 72.120, or to satisfy the design criteria in §§ 72.122 through 72.130.

20. The license application poses undue risk to public health and safety and State water resources because of potential berm failure, flooding, storm water run off, and discharge from the retention basin. This may result in contamination of offsite groundwater, surface water, or soils.

21. The license application poses undue risk to public health, safety and the environment because its sanitation system creates a direct contaminant pathway to ground and surface water.

22. The license application poses undue risk to public health, safety and the environment because construction and transportation activities and operation of the concrete batch will significantly impact air quality off the reservation and

potentially violate the National Ambient Air Quality Standards.

23. The license application poses undue risk to public health, safety and the environment because it has no contingencies to deal with damaged, contaminated or leaking casks, or casks containing damaged fuel, that cannot be immediately returned to the originating nuclear power plant.

24. The license application poses undue risk to public health, safety and the environment because it does not describe an adequate ALARA program, nor does the applicant give relevant details about monitoring, including offsite monitoring, and health protection for its workers or others who may be affected by its operations.

25. The license application poses undue risk to public health, safety and the environment because the applicant fails to satisfy the quality assurance criteria in 10 CFR § 72, Subpart G.

26. The license application poses undue risk to public health, safety and the environment because it relies on an incomplete safety analysis that does not adequately address or evaluate the risks of radiological and non-radiological accidents associated with the transportation of casks and construction, operation, and decommissioning of the ISFSI. Nor does it take into account the cumulative risks posed by surrounding activities, physical sensitivity and composition of the Utah citizens, and background conditions.

27. The license application poses undue risk to public health, safety

and the environment because of the proximity of incompatible and hazardous activities near the ISFSI such as military weapons testing and range fires.

28. The license application fails to comply with the National Environmental Policy Act (NEPA) because it fails to adequately identify or evaluate the adverse environmental impacts of the proposed ISFSI, including disparate adverse impacts on a minority community, of the proposed ISFSI.

29. The license application fails to comply with NEPA because it fails to provide an adequate comparison of the costs and benefits of constructing and operating the ISFSI.

30. The license application fails to comply with NEPA because it fails to identify a reasonable range of alternatives to the proposed ISFSI, including the no action alternative.

31. The license application fails to comply with NEPA because it fails to propose reasonable mitigative measures.

32. The license application fails to comply with NEPA and the National Historic Preservation Act because it fails to adequately identify and evaluate disparate impacts to important historic, cultural, and natural aspects of national heritage.

33. The Bureau of Indian Affairs has not complied with its statutory and regulatory obligations under NEPA.

34. The Secretary of the Interior, acting through the Bureau of Indian Affairs, has not satisfied his trust responsibility to American Indians or complied with the requirements of 25 USC § 415 in conditionally approving the lease between the Skull Valley Band of Goshute and the applicant.

DATED this 11<sup>th</sup> day of September, 1997.

Respectfully submitted,  
JAN GRAHAM  
Attorney General



Denise Chancellor  
Assistant Attorney General  
Utah Attorney General's Office  
160 East 300 South, 5th Floor  
P.O. Box 140873  
Salt Lake City UT 84114-0873  
Telephone: (801) 366-0286  
Fax: (801) 366-0292

# CERTIFICATE OF MAILING

I hereby certify that I caused to be mailed Federal Express an original and two copies of the foregoing STATE OF UTAH'S PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING to the following:

Attn: Docketing & Services Branch  
Secretary of the Commission  
U. S. Nuclear Regulatory Commission  
Mail Stop: O16G15  
11555 Rockville Pike, One White Flint North  
Rockville, MD 20852-2738

and also certify that I caused to be mailed first class postage prepaid a copy of the foregoing to the following:

Office of General Counsel  
U. S. Nuclear Regulatory Commission  
Mail Stop: O15B18  
11555 Rockville Pike, One White Flint North  
Rockville, MD 20852-2738

Jay Silberg  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street N.W.  
Washington, D. C. 20037-8007

Leon Bear, Chairman  
Skull Valley Band of Goshute  
Skull Valley Reservation  
P. O. Box 150  
Grantsville, Utah 84029

John Paul Kennedy  
Attorney for David Pete and the Confederated Tribes of the Goshute  
Reservation  
1385 Yale Avenue  
Salt Lake City, Utah 84105

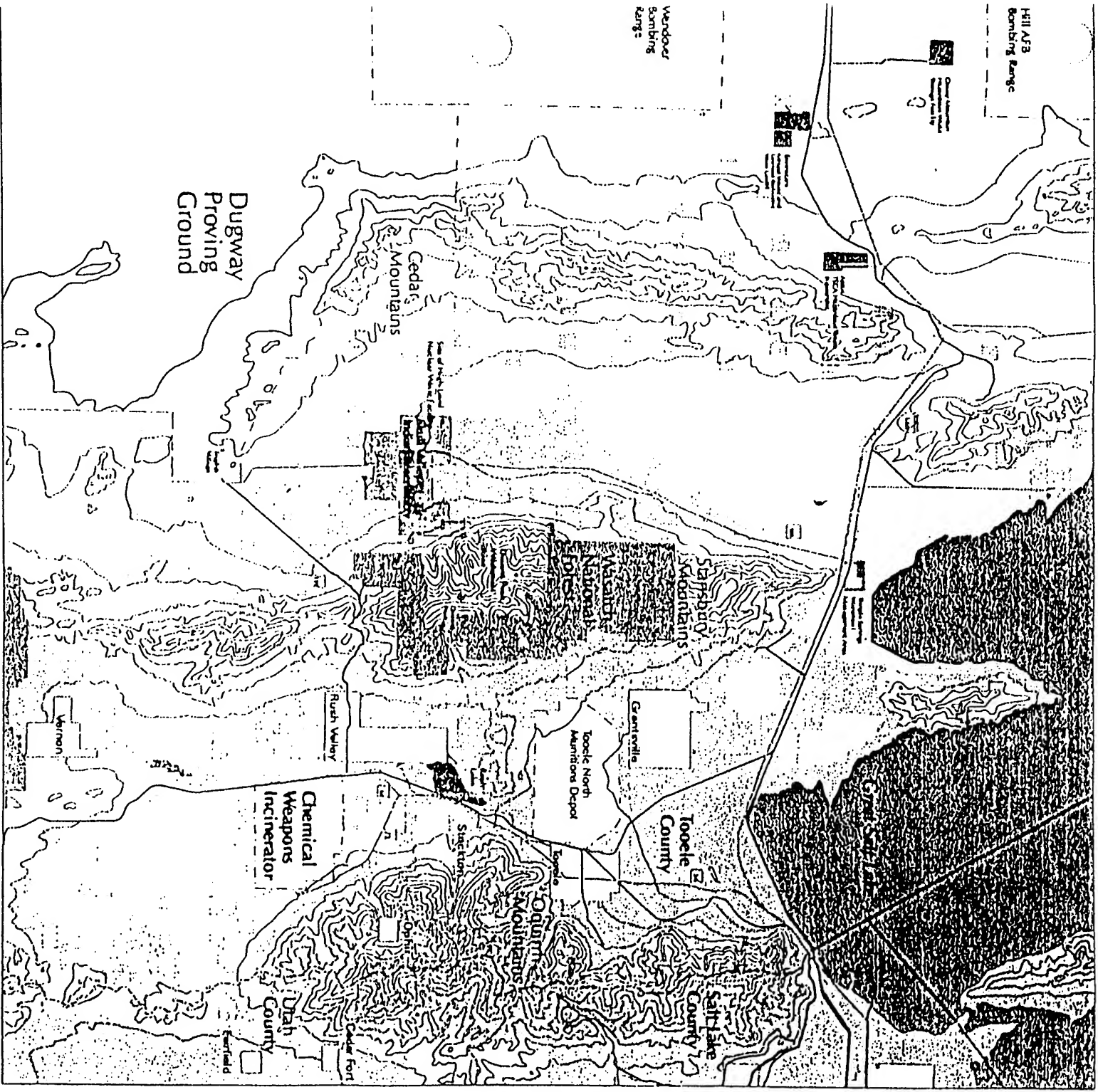


Mark Delligatti  
U. S. Nuclear Regulatory Commission  
Spent Fuel Project Office  
Mail Stop 06G22  
Washington, D. C. 20555

Dated this 11<sup>th</sup> day of September, 1997

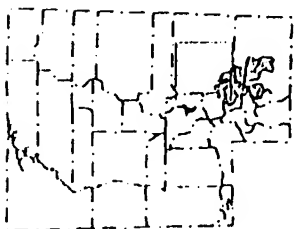


EXHIBIT 1



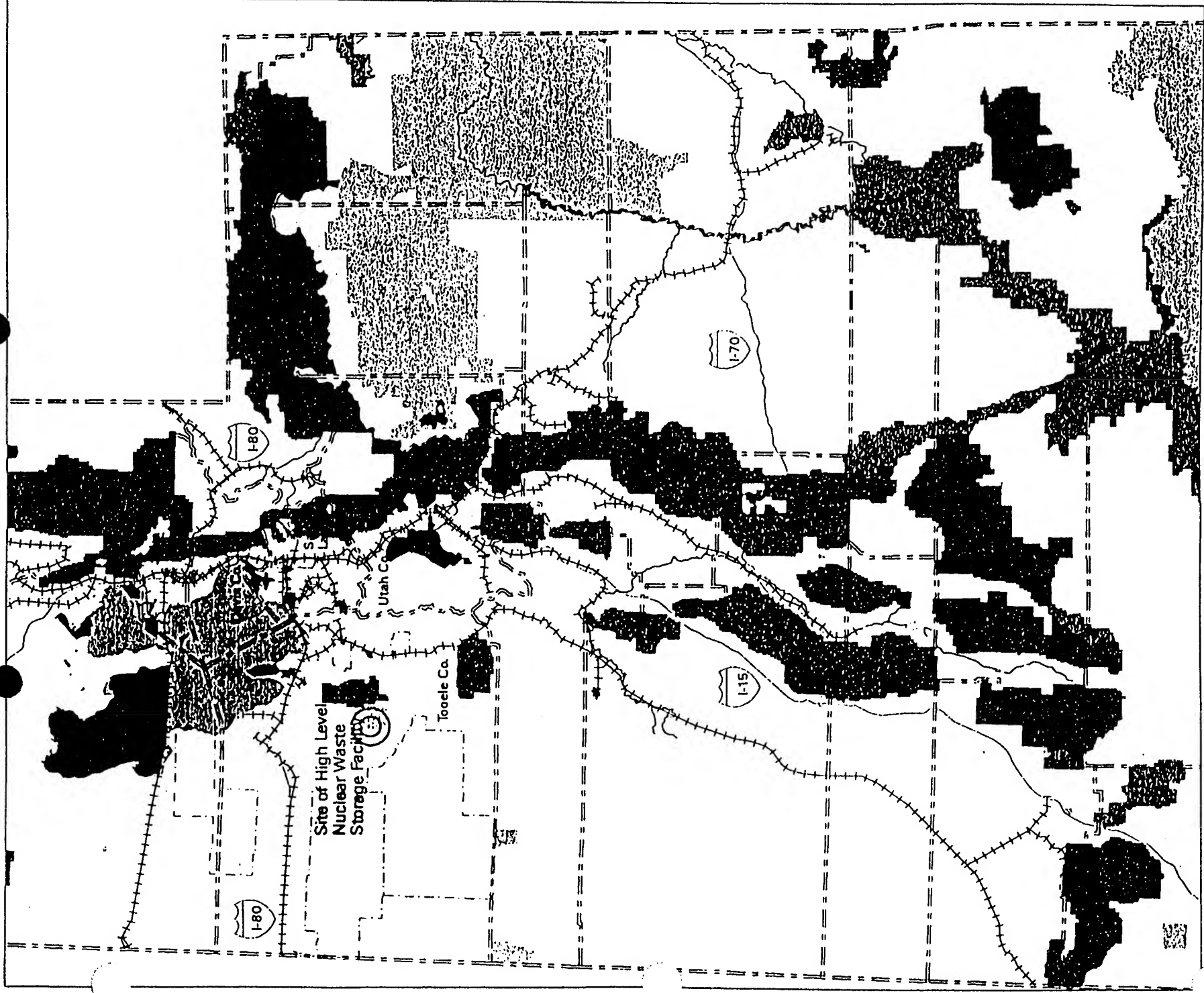
# and Ownership Surrounding High Level Nuclear Waste Facility

Utah Department of Environmental Quality



- National Forest
- Division of Land Management
- State of Utah
- Indian Reservation
- Private Land
- Military Reservation
- State Wildlife Management
- USFS / BLM Wilderness Area

EXHIBIT 2



# Major Transportation Routes and Watercourses

Utah Department of Environmental Quality



U.S. Department of  
Transportation

## News:

Office of the Assistant Secretary for Public Affairs  
Washington, D.C. 20590  
<http://www.dot.gov/briefing.htm>

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### **For Immediate Release**

Tuesday, August 26, 1997

Contact: David A. Bolger

Tel.: (202) 632-3124

FRA 18-97

### **FRA Launches Safety Inspection Teams To Review Entire Union Pacific Railroad System**

The Federal Railroad Administration (FRA) today launched round-the-clock inspections by 60 federal and state safety inspectors concerning operations on the Union Pacific Railroad (UP).

The inspection has been initiated to determine ways to improve railroad safety as a result of the Union Pacific's involvement in three railroad collisions resulting in the deaths of 7 people and millions of dollars in property damage over the past three months. Five other Union Pacific employees have been killed in five separate incidents since January of this year.

"Safety is our highest priority. The FRA's investigations of the recent collisions on the Union Pacific Railroad have led us to believe there are critical safety deficiencies present at some locations and immediate action across the entire UP system is necessary," stated FRA Administrator Jolene M. Molitoris. "This system-wide safety review will provide us with critical operational information for us to improve safety on this railroad."

The FRA started to review of Union Pacific operations Saturday, August 23, with a moderate deployment of operating practices safety specialists at various points on the UP system. Today, the combined federal and state safety teams begin round-the-clock reviews for the next 7-10 days in the following locations: Chicago, Denver, Ft. Worth, Houston, Los Angeles, Kansas City, Omaha, Pocatello (ID) Portland (OR), Sacramento, and San Antonio.

Inspection reviews include: safety inspectors riding with select UP crews on trains throughout the system to determine whether the highest levels of operating practices are maintained; dispatching specialists overseeing operations in Omaha and Denver to monitor whether trains throughout the UP network are dispatched safely; and operating practices specialists conducting interviews with local railroad officials, train crews, labor representatives, managers and contractors to review safety operations and

practices to determine potential unsafe conditions. The FRA Administrator and senior FRA officials will be meeting this week in Washington with the CEO of Union Pacific, Jerry Davis, and senior UP officials to review preliminary findings of the team inspections.

Recent collisions prompting this team inspection by the FRA included:

- June 2, 1997 Devine, TX, two UP freight trains collided head-on. As a result of the collision, two crew members were killed as well as two stowaways.
- July 2, 1997 Kenefick, KS, a UP freight train in a siding struck the sixth head car of a passing UP intermodal train. As a result of the collision, the engineer of the westward train was killed.
- August 21, 1997 Fort Worth, TX, four unattended UP locomotives moving eastward at an estimated speed of 60 mph collided head-on with a UP freight train as it departed the UP's Centennial Yard. The freight train's engineer and engineer pilot were killed.

The FRA is assisting the National Transportation Safety Board in its investigations of the causes of these collisions.

The FRA has been working with the Union Pacific on operational management issues following UP's merger with the Southern Pacific Railroad (SP) in 1996. In the Department of Transportation's post-merger review filing before the Surface Transportation Board, the FRA identified problems in the train control, operating practices, training, train inspection, hazardous materials defects, and quality control at the dispatch centers on the UP rail network. The team inspectors will be reviewing these and other operational safety measures on the railroad.

The Union Pacific Railroad is the nation's largest railroad, employing more than 53,000 persons and operating over 36,000 miles of track in the western two thirds of the United States.

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Briefing Room

Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 20, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been

admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any

hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Jay Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Untimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 8, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 15th day of September 1997.

For the Nuclear Regulatory Commission,  
William H. Beteman,  
Director, Project Directorate IV-2, Division  
of Reactor Projects III/IV, Office of Nuclear  
Reactor Regulation,  
(FR Doc. 97-34018 Filed 9-18-97; 8:45 am)  
BILLING CODE 7550-01-0

## NUCLEAR REGULATORY COMMISSION

(DocId: No. 73-02-15PM; ARLSP No. 97-  
733-02-15PM)

Private Fuel Storage, LLC;  
Establishment of Atomic Safety and  
Licensing Board

Pursuant to delegation by the  
Commission dated December 29, 1972  
published in the Federal Register, 37  
28710 (1972), and sections 2.105, 2.700,



49284

Federal Register / Vol. 62, No. 182 / Friday, September 19, 1997 / Notices

2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for hearing and for leave to intervene and to preside over the proceeding in the event that a hearing is ordered.

**Private Fuel Storage, LLC (Independent Spent Fuel Storage Installation)**

This Board is being established pursuant to a notice published by the Commission on July 31, 1997, in the Federal Register (62 FR 41099). The proceeding involves an application by Private Fuel Storage, LLC, for the issuance of a license for the storage of spent fuel under the provisions of 10 CFR part 72. The license, if granted, would authorize the applicant to possess and store spent fuel in an independent spent fuel storage installation that would be located on the Skull Valley Goshute Indian Reservation in Skull Valley, Utah.

The Board is comprised of the following administrative judges:

G. Paul Boliwerk, III, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dr. Jerry K. Kline, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Thomas D. Murphy, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

All correspondence, documents and other materials shall be filed with the judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 15th day of September 1997.

B. Paul Carter, Jr.,  
Chief Administrative Judge Atomic Safety and Licensing Board Panel.

(FR Doc. 97-34915 Filed 9-18-97; 8:45 am)

BILLING CODE 7000-01-P

**NUCLEAR REGULATORY COMMISSION**

**Public Workshop: Demonstrating Compliance With the Radiological Criteria for License Termination—License Termination Under Restricted Conditions**

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of meeting.

**SUMMARY:** The NRC will hold a public workshop in Rockville, Maryland to

receive input from licensees and the public on a working paper on "License Termination Under Restricted Conditions." This working paper is being developed as a section of a future Regulatory Guide, "Demonstrating Compliance With the Radiological Criteria for License Termination." The Regulatory Guide is being written to describe an acceptable method to comply with the NRC's recent final rule on Radiological Criteria for License Termination (62 FR 39038; July 21, 1997). The purpose of the workshop is to obtain comments, suggestions, and information from the public on the approach in the working paper so that a better Regulatory Guide can be developed. All interested licensees and members of the public are invited to attend this workshop.

**DATE:** The workshop will be held on October 15, 1997, beginning at 9 a.m. and ending at about 5 p.m.

Interested parties, unable to attend the workshop, are encouraged to provide written comments by November 30, 1997.

**ADDRESSES:** The public workshop will be held in the NRC's ACRS meeting room at Two White Flint North, 11645 Rockville Pike, Rockville, Maryland.

The workshop will also be available at other locations by video-conferencing. Information on video-conferencing locations will be posted on the NRC Technical Conference Forum Website under the topic "Final Rule for License Termination" at <http://techconf.llnl.gov/cgi-bin/topics>.

A copy of the working paper to be discussed can be obtained electronically at the NRC Technical Conference Forum Website under the topic "Final Rule for License Termination" at <http://techconf.llnl.gov/cgi-bin/topics> or from the NRC's Public Document Room, 2120 L Street, NW., (Lower Level), Washington, DC 20555; telephone 202-634-3273; fax 202-634-3343.

Comments may be posted electronically on the NRC Technical Conference Forum Website mentioned above. Comments submitted electronically can also be viewed at that website.

Comments may also be mailed to the Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

**FOR FURTHER INFORMATION CONTACT:** For information or questions on meeting arrangements, contact Jayne McCausland, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-6219, fax 301-415-6385, E-mail:

JMM3@NRC.GOV. For technical information or questions, contact Stephen A. McGuire, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-415-6304; fax 301-415-5385; E-mail: SAM3@NRC.GOV.

**SUPPLEMENTARY INFORMATION:** This workshop is one of a series of interactions with the Agreement States, licensees, and the public to gather suggestions and ideas to ensure the success in developing a Regulatory Guide on "Demonstrating Compliance With the Radiological Criteria for License Termination." The workshop will begin with a brief introduction on some of the more important questions that were considered in developing the Regulatory Guide working paper on "License Termination Under Restricted Conditions." After the introduction, the Working Paper will be reviewed section-by-section. Attendees will be asked for questions and comments on each section. The NRC will ask questions on the approach that it has developed. Written comments that have been received from the public will be discussed.

Visitor parking around the NRC building is limited; however, the workshop site is located adjacent to the White Flint Station on the Metro Red Line. Seating for the public will be on a first-come, first-served basis.

A transcript of this workshop will be available for inspection, and copying for a fee at the NRC Public Document Room, 2120 L Street, NW., Lower Level, Washington, DC 20555, on or about October 31, 1997.

Dated at Rockville, Maryland this 11th day of September, 1997.

For the Nuclear Regulatory Commission.

Cheryl A. Trotter,

Chief, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, RES.

(FR Doc. 97-34930 Filed 9-18-97; 8:45 am)

BILLING CODE 7000-01-P

**NUCLEAR REGULATORY COMMISSION**

**Hosting of Information at World Wide Web Site Currently at FedWorld, Except for Agency Government Information Locator System (GILS)**

Notice is hereby given that effective October 1, 1997, the Nuclear Regulatory Commission (NRC) will begin hosting at its World Wide Web (WWW) site (<http://www.nrc.gov>) agency information currently posted on the FedWorld bulletin board system at the